



# **CITY OF DETROIT**

## **FOURTEENTH QUARTER**

### **STATUS REPORT**



To The

Independent Monitor

*FOR THE QUARTER ENDING  
FEBRUARY 28, 2007*

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# TABLE OF CONTENTS

**INTRODUCTION .....4**

**EXECUTIVE SUMMARY.....4**

**CONDITIONS OF CONFINEMENT .....9**

**USE OF FORCE.....25**

**CONCLUSION.....45**

**APPENDIX.....46**

## INTRODUCTION

The City of Detroit (City), the Detroit Police Department (DPD) and the United States Department of Justice (DOJ) entered into two Consent Judgments on July 18, 2003, one dealing with *Use of Force, Arrest and Witness Detention* (UOF CJ) and a second regarding *Conditions of Confinement* (COC CJ). This progress report (entitled the *Fourteenth Quarter Status Report to the Independent Monitor*) presents the City's continued commitment to achieve compliance with the *consent judgments* (CJ), detailing the City's compliance efforts for the fourteenth quarter, which began December 1, 2006, and ended February 28, 2007.

## EXECUTIVE SUMMARY

During the fourteenth quarter, the City and the DPD continued to move forward in satisfying the requirements for paragraphs under review for this quarter, particularly in the area of policy implementation. The fourteenth quarter review consists of 73 paragraphs. Of the paragraphs reviewed, 32 are from the COC CJ and 41 pertain to the UOF CJ.

PARAGRAPHS REVIEWED DURING THE FOURTEENTH QUARTER		
CONDITIONS OF CONFINEMENT	USE OF FORCE	
C-39 through C-45 C-49 through C-57 C-62 through C-71 C-73 C-75 through C-78 C-94	U-27 through U-33 U-49 through C-51 U-53 U-55 U-57 U-60	U-72 through U-78 U-85 U-88 and U-89 U-98 U-100 through U-105 U-115 through U-123 U-139

The following areas of the CJ are reviewed, respectively, in this quarterly report:

<b>CONDITIONS OF CONFINEMENT</b>
• Environmental Health and Safety Policies
• Food Service Policies
• Personal Hygiene Policies
• Use of Force and Restraints Policies
• Incident Documentation, Investigation and Review
• Management and Supervision
• Training
• Monitoring and Reporting
<b>USE OF FORCE</b>
• Incident Documentation, Investigation, and Review
• Arrest and Detention Policies and Practices
• General Policies
• Management and Supervision
• Training
• Monitoring, Reporting, and Implementation

## **POLICIES**

The DPD has revised and/or developed twenty-six (26) Directives, seven (7) Training Directives, and one (1) Matrix to address specific CJ paragraph requirements. All of these policies/directives have been closely scrutinized by the Monitor's and the DOJ's subject matter experts and have been, subsequently, approved by both the Monitor and the DOJ. All of these policies have been distributed, and DPD members have acknowledged receipt. In addition, on February 28, 2007, a new DPD proposed policy was further revised regarding the DPD's transference of pre-arraigned detainees from the DPD's custody to the Wayne County Jail which will be submitted to the Monitor and the DOJ in the next quarter.

## **TRAINING**

The DPD continues to conduct classes on the use of the Interim Management Awareness System (IMAS). A total of 541 (81%) of supervisory personnel have received IMAS training. In addition, training has commenced on the proper handling of the intermediate weapon (PR-24), Supervisory Leadership and Accountability, the Detective School, and legal, which is an 8-hour block of instruction that commenced on February 14, 2007.

While the only lesson plan that has been approved is the PR-24 Training,<sup>1</sup> all of the aforementioned training courses are CJ related and have an important nexus to effective policy implementation. Several of the CJ "training paragraphs" lesson plans have been previously submitted to the Monitor and are being revised based on input from the Monitor.<sup>2</sup> It is anticipated that the Supervisory Leadership and Accountability lesson plan and the remaining lesson plans will be re-submitted to the Monitor during the next reporting quarter. In addition, the DPD is developing a standardized Roll Call Training Delivery Program, which is expected to be operational during the next quarter. This standardized training will ensure consistency in all areas of in-service training conducted within the DPD.

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<sup>1</sup> Approved by the DOJ on November 25, 2005.

<sup>2</sup> The Monitor provided the DPD with written comments relative to the Firearms Lesson Plan and the Supervisory Leadership and Accountability Lesson Plan as well as some generalized written comments. In addition, the DPD and the Monitor met relative to some on-going concerns of the DPD regarding the Monitor's overall process of lesson plan review. The DPD believes these meetings and conversations were helpful.

## **HOLDING CELL COMPLIANCE COMMITTEE**

The Holding Cell Compliance Committee (HCCC) has made significant progress during this quarter. All of the required COC Audits were submitted to the Monitor. In addition, the HCCC continues to conduct cellblock inspections to ensure that matters of detainee safety, cleaning and maintenance are satisfied.

The following forms and logs relative to the COC CJ have been approved by the DOJ:

• Detainee Intake Form
• Detainee Medical Care Referral Form
• Mental Health High Risk Monitoring Log
• Confidential Medical Envelope (CME)
• Detainee File Folder
• Privilege Restriction Form
• Alert Stickers
• Medical High Risk Monitoring Log
• Detainee Transfer Log

The following forms and logs relative to the COC and UOF CJs have been approved by the Monitor:

• Review of Arrest
• Investigating Stop and Frisk
• Warrant/Arrest Compliance
• Witness Identification and Questioning
• Hold Form
• Commander's Review
• Holding Cell Cleaning Log
• Weekly Holding Cell Maintenance Log
• Detainee Food and Hygiene Log
• Supervisor's Detainee Processing Area Video Review
• Supervisor's In-Car Video Review

## **AUDITS**

During this quarter, the Audit Team submitted the following ten (10) audit reports to the Monitor:

• Use of Force in Holding Cell Investigations
• Prisoner Injury Investigation
• Allegations of Misconduct in Holding Cells
• Fire Safety Practices and Policies
• Emergency Preparedness Program
• Medical/Mental Health Programs and Policies
• Detainee Safety Programs and Policies
• Environmental Health and Safety
• Detainee Food Service and Personal Hygiene Practices
• Use of Force

## **TECHNICAL ASSISTANCE**

On November 29, 2006, the Monitor provided several members of the DPD's Audit Team with Technical Assistance (TA) regarding report writing and provided exemplars of audit reports. The Audit Team utilized the information gleaned from the TA for the audit reports that were submitted on January 31, 2007.

On December 13, 2006, the Monitor provided members of the DPD with TA on lesson plan development. In addition, on January 24, 2007, the Monitor and members of the DOJ met with DPD members relative to the firearms lesson plan. On February 27, 2007, further discussions relative to lesson plan development took place between members of the Monitor's team and the DPD.

## PARAGRAPHS REVIEWED FOR THE FOURTEENTH QUARTER

### ***CONDITIONS OF CONFINEMENT***

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#### **Paragraph C-39**

#### **Environmental Health and Safety Policies**

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The DPD shall ensure that all holding cells are cleaned immediately and thereafter are maintained in a clean and sanitary manner.

**STATUS:** Due to the association between Paragraphs C-39 and C-40, the status of this paragraph is reported jointly under Paragraph C-40.

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#### **Paragraph C-40**

#### **Environmental Health and Safety Policies**

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The DPD shall design and implement a cleaning policy for all holding cells. The policy shall require routine cleaning and supervisory inspection of the holding cells and nearby areas.

**STATUS:** The DPD has effectively disseminated the Holding Cell Areas Directive, 305.4, which requires the routine cleaning and supervisory inspections of all holding cells and nearby areas. The DPD continues to utilize the power washing schedule for all holding cell facilities as delineated in DPD Teletype #06-00167. Listed below are the facilities that contain holding cells and the frequency in which they were power washed and sanitized.

<b>DISTRICT</b>	<b>DATE(S)</b>	<b>TELETYPE ISSUED</b>
EASTERN	DECEMBER 6, 2006 JANUARY 3, 2007 FEBRUARY 7, 2007	#06-04931 #07-00620 #07-00880
NORTHWESTERN	DECEMBER 27, 2007 JANUARY 31, 2007 FEBRUARY 25, 2007	#06-05460 #07-00195 #07-00764
NORTHEASTERN	DECEMBER 13, 2006 JANUARY 10, 2007	#06-05217 #07-00020
SOUTHWESTERN	DECEMBER 28, 2006	#06-05211
WESTERN	JANUARY 17, 2007 FEBRUARY 21, 2007	#07-00154 #07-00692

Regular inspections are conducted by the commanding officers of the holding facilities as part of their routine functions. Unannounced inspections for cleanliness were conducted by OCR and HCCC Inspection Teams on November 27, 28, and 29, 2006 and January 24, 2007, of all district holding cells and surrounding areas. The areas were found to be clean and free of debris and properly maintained.



Supervisory inspections are being conducted and documented on the *Holding Cell Cleaning Log (DPD 701)*. Additionally, randomly selected detention officers and cellblock supervisors were interviewed relative to DPD policy and they were knowledgeable of their duties and responsibilities.

The Audit Team's Environmental Health and Safety Audit Report (EH&S), which was submitted to the Monitor on January 31, 2007, substantiated the findings of the aforementioned inspections. The EH&S Audit Report states that the DPD holding cells and the surrounding areas were determined "to be reasonably clean, clear of trash and debris, and were maintained in a sanitary manner: 112 of 112 (or 100%) holding cells and 6 of 6 (or 100%) surrounding areas."

The DPD is in compliance with the requirements of Paragraphs C-39 and C-40.

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**Paragraph C-41**

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**Environmental Health and Safety Policies**

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The DPD shall design and implement a maintenance policy for all holding cells that requires timely performance of routine maintenance and the documentation of all maintenance requests and responses in an auditable log.

**STATUS:** The DPD has designed and implemented a maintenance policy (Holding Cell Areas Directive 305.4) for all holding cells that require timely performance of routine maintenance and the documentation of all maintenance requests and responses in an auditable log. Repairs are being made in a timely manner and the maintenance repair requests are being documented on the *Weekly Holding Cell Maintenance Log (DPD 702)*. Additionally, each District has a designated person who is responsible for ensuring that the *Weekly Holding Cell Maintenance Log (DPD 702)* is being consistently and accurately completed for all work order requests inclusive to any holding cell or holding cell area repair.

The DPD is in compliance with the requirements of Paragraph C-41.

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**Paragraph C-42**

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**Environmental Health and Safety Policies**

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The DPD shall provide adequate heating and ventilation for all buildings containing holding cells.

**STATUS:** *Adequate Heating*

The DPD has effectively disseminated the *Holding Cell Areas Directive, 305.4*. The OCR and HCCC Inspection Teams conducted unannounced inspections on November 27, 28, and 29, 2006, of all Districts containing holding cells and found that the room temperatures were within the prescribed range of 66 – 80 degrees

Fahrenheit. The EH&S Audit Report concludes that “based on the audit tests, the AT determined that DPD has satisfied the requirement for adequate heating for all buildings containing holding cells.”

The DPD is in compliance with the requirement of Paragraph C-42 as it relates to the heating of DPD buildings that contain holding cells.

#### *Adequate Ventilation*

To date, the DPD has maintained the ventilation systems within the buildings containing holding cells. This is substantiated by the EH&S Audit Report submitted to the Monitor on January 31, 2007. The DPD has not modified nor altered any component of any holding cell facility’s ventilation system to hinder its intended purpose or effectiveness. The DPD was found compliant proceeding the last assessment of this paragraph in the Monitor’s Quarterly Report ending May 31, 2006.

The DPD remains in compliance with the requirement of Paragraph C-42 as it relates to the ventilation of DPD buildings that contain holding cells.

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#### **Paragraph C-43**

#### **Environmental Health and Safety Policies**

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The DPD shall repair all broken or malfunctioning lighting, toilets, sinks and windows in holding cells and observation cells.

**STATUS:** The OCR and HCCC Inspection Teams conducted unannounced inspections on November 27, 28, and 29, 2006, of all District holding cells. These inspections did not reveal any holding cells or observations cells that were incurring any problems associated with broken or malfunctioning lighting, toilets, sinks and windows. The Inspection Team found all DPD holding facilities to be properly maintained.

In addition, the EH&S AT inspected 112 holding cells and found the following: light fixtures in 112 (or 100%) holding cells were operable; light bulbs in 110 (or 98%) holding cells were operable; sinks in 112 (or 100%) holding cells were operable; toilets in 112 (or 100%) holding cells were operable; and there were no windows in 112 (or 100%) of the holding cells. The EH&S Audit Report indicates that “the AT determined that DPD has satisfied the requirement to maintain operable equipment in holding cells.”

The DPD was found compliant proceeding the last assessment of this paragraph in the Monitor’s Quarterly Report ending May 31, 2006.

The DPD remains in compliance with the requirements of Paragraph C-43.

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**Paragraph C-44**

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**Environmental Health and Safety Policies**

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The DPD shall ensure that lighting in all cell block areas is sufficient to reach 20 foot-candles of illumination at desk level and in personal grooming areas.

**STATUS:** The determination of compliance regarding this paragraph was reported in the EH&S Audit Report submitted to the Monitor on January 31, 2007. The documented audit findings through on-site testing with a luxmeter of all holding cells and holding cell areas within the DPD show the readings to be above the minimum standard of 20 foot-candles of illumination.

The DPD is in compliance with the requirements of Paragraph C-44.

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**Paragraph C-45**

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**Environmental Health and Safety Policies**

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The DPD shall provide all prisoners with reasonable access to toilets and potable water 24 hours-a-day.

**STATUS:** All DPD facilities containing holding cells continue to maintain a system that provides reasonable access to toilets and potable water 24 hours a day. This is substantiated by the findings of the EH&S Audit Report submitted to the Monitor on January 31, 2007, which indicates that in 112 of 112 holding cells, the DPD has equipped each holding cell with a self-contained toilet/sink unit with a drinking fountain spigot that provides each detainee with access to potable water 24 hours a day. In 112 of 112 holding cells, the DPD has equipped each holding cell with a self-contained toilet/sink unit that provides each detainee with access to toilets 24 hours a day; and; if at anytime the toilet/sink unit is deemed inoperable, the detainee is relocated to another holding cell that is operable. The AT concluded "based on the audit tests that DPD has satisfied the requirement to provide all detainees with reasonable access to toilets and potable water 24 hours a day."

The DPD was found compliant proceeding the last assessment of this paragraph in the Monitor's Quarterly Report ending May 31, 2006.

The DPD remains in compliance with the requirements of Paragraph C-45.

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**Paragraph C-49**

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**Food Service Policies**

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The DPD shall ensure food is stored and served in a sanitary manner and in compliance with state and local health codes.

**STATUS:** On November 27, 28, and 29, 2006, the OCR and HCCC Inspection Teams conducted inspections. The results of these inspections demonstrate that the DPD is storing and serving meals in a sanitary manner as prescribed by the state and local codes, which are incorporated into DPD's Directive 305.8, *Detainee Food Service and Hygiene Items*. The inspections also disclosed that the *Holding Cell Cleaning Log* (DPD 701) is being properly documented whenever the food preparation areas are cleaned and disinfected. Additionally, the daily readings of refrigerator temperatures and the weekly sanitization of the refrigerators are being documented on the *Weekly Detainee Refrigerator Cleaning and Inspection Log* (DPD 665).

The following charts provide a synopsis of the findings:

#### PLATOON ONE

District	Detainee food refrigerator temperature	Were hand washing signs posted?	Was the food preparation area clean?	Was an adequate number of sandwiches and juice in the refrigerator?	Was the meal and hygiene items logs updated?	Did the detention officers exhibit knowledge of DPD policy?
Eastern	45 degrees <sup>3</sup>	Yes	Yes	Yes	Yes	Yes
Northeastern	34 degrees	Yes	Yes	Yes	Yes	Yes
Western	38 degrees	Yes	Yes	Yes	Yes	Yes
Southwestern	35 degrees	Yes	Yes	Yes	Yes	Yes
Northwestern	33 degrees	Yes	Yes	Yes	Yes	Yes

#### PLATOON THREE

District	Detainee food refrigerator temperature	Were hand washing signs posted?	Was the food preparation area clean?	Was an adequate number of sandwiches and juice in the refrigerator?	Was the meal and hygiene items logs updated?	Did the detention officers exhibit knowledge of DPD policy?
Eastern	34 degrees	Yes	Yes	Yes	Yes	Yes
Northeastern	35 degrees	Yes	Yes	Yes	Yes	Yes
Western	37 degrees	Yes	Yes	Yes	Yes	Yes
Southwestern	35 degrees	Yes	Yes	Yes	Yes	Yes
Northwestern	33 degrees	Yes	Yes	Yes	Yes	Yes

The DPD is in compliance with the requirements of Paragraph C-49.

#### Paragraph C-50

#### Food Services Policy

<sup>3</sup> This temperature was taken shortly after the refrigerator had been opened for feeding detainees, which is the likely reason for the slightly elevated temperature. A prior reading taken on November 27, 2006, revealed the temperature was 34 degrees and subsequent reading taken on January 25, 2007, revealed the temperature was 33 degrees.

The DPD shall develop and implement a food service policy that shall be approved in writing by a qualified sanitarian. At a minimum, the food service policy shall:

- a. require that the meal plan is initially approved in writing by a qualified dietician and, thereafter, is reviewed and approved in writing by a qualified dietician at least every year, or prior to any revisions to the program;
- b. require that all food is stored and handled in a sanitary manner;
- c. ensure that all prisoners are provided with an alternative meal if they are unable to eat the standard meal for religious or dietary reasons; and
- d. ensure that food service is provided to all prisoners who are held over six hours.

**STATUS:** The DPD has satisfied the policy requirements as delineated in Paragraph C-50,<sup>4</sup> and has successfully implemented these policy provisions through the effective dissemination to DPD members. The initial Food Service Policy entitled "Protocols for Implementation of Detainee Feeding Programs" (or Detainee Feeding Policy - DFP), was reviewed by a qualified dietician to ensure the menu selection meets the standards for the Recommended Daily Allowance (RDA). The DFP was issued on January 23, 2004, and reviewed and approved in writing by a registered dietician and a registered sanitarian on March 15, 2005, February 6, 2006, and February 14, 2007.

The DPD is in compliance with the requirements of Paragraph C-50.

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## Paragraph C-51

## Personal Hygiene Policies

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The DPD shall ensure that personal hygiene items are made available as needed. Available hygiene items should include: soap, toothbrushes, toothpaste, toilet paper, a comb, deodorant, and feminine hygiene products. The DPD shall implement this provision within one month of the effective date of this Agreement.

**STATUS:** The OCR and HCCC Inspection Teams conducted unannounced inspections on November 27, 28, and 29, 2006, of all District holding cells that revealed that all DPD holding facilities had more than an adequate supply of personal hygiene necessities. The inspections also revealed that all cell block personnel were knowledgeable of the requirements of the *Food Service and Hygiene Items Directive*. Additionally, all DPD facilities continue to prominently display in the holding cell area a placard, in English, Spanish and Arabic languages, advising detainees of their availability to these specified hygiene items upon request.

The DPD is in compliance with the requirements of Paragraph C-51.

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<sup>4</sup> The Monitor found that the DPD had effectively disseminated Directive 305.8, *Detainee Food Service and Hygiene Items*, in the Report for the Quarter ending February 28, 2006.

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**Paragraph C-52**

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**Use of Force and Restraints Policies**

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The DPD shall require that any use of force on prisoners in holding cells complies with the DPD's use of force policies and procedures.

**STATUS:** The DPD's Directives: 304.2, *Use of Force*; 305.4, *Holding Cell Areas*; and Training Directive 04-7, *Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating*, requires that any use of force on prisoners in holding cells complies with the use of force policies and procedures.

The *Use of Force in Holding Cells Audit Report*, which was submitted to the Monitor on January 31, 2007, found the DPD non-compliant in the objectives evaluated relative to the mandates of this paragraph. The DPD is currently reviewing the merits of the audit to determine a course of action to achieve compliance.

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**Paragraph C-53**

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**Use of Force and Restraints Policies**

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The DPD shall revise and augment its policies regarding prisoners to require that:

- a. officers utilize appropriate precautions when interacting with a prisoner who has previously demonstrated he or she is recalcitrant or resistant, including: summoning additional officers; summoning a supervisor; and using appropriate restraints;
- b. absent exigent circumstances, officers notify a supervisor before using force on a prisoner who is confined to a cell; and
- c. the supervisor assesses the need to use force on a prisoner who is confined to a cell, direct any such use of force and ensure the incident is videotaped.

**STATUS:** The DPD has revised and augmented its policies pursuant to the requirements of this paragraph and have effectively disseminated the following Directives: 304.2, *Use of Force*; 305.4, *Holding Cell Areas*; and Training Directive 04-7, *Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating*, subsequent to the Monitor's and the DOJ's approval (reported by the Monitor in the Quarterly Report ending February 28, 2006).

The DPD is in compliance with the requirements of Paragraph C-53.

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**Paragraph C-54**

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**Use of Force and Restraints Policies**

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The DPD shall not handcuff prisoners to benches for longer periods of time than are necessary.

**STATUS:** The DPD *Holding Cell Areas Directive 305.4* emphasizes the importance of not handcuffing a detainee to a fixed object for longer than three (3) hours. The DPD continues to effectively utilize the *Handcuff to Object (H2O) Form* (DPD 670). This form captures the exact time that a detainee is handcuffed to a fixed object and the exact time that the detainee is un-handcuffed from this fixed object.

The OCR Inspection Team conducted unannounced inspections of all holding facilities and locations of specialized units that conduct on-site interrogations on January 18, 24, and 25, 2007. The results did not reveal one single instance of a detainee being handcuffed to a fixed object.

The DPD is in compliance with the requirements of Paragraph C-54.

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**Paragraph C-55**

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**Incident Documentation, Investigation and Review**

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The DPD shall require that all uses of force, injuries to prisoners and in-custody deaths occurring in the DPD holding cells are investigated in compliance with the DPD's general incident investigation policies.

**STATUS:** Due to the association between Paragraphs C-55, C-56, and C-57, the status of this paragraph is reported jointly under Paragraph C-57.

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**Paragraph C-56**

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**Incident Documentation, Investigation and Review**

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The DPD shall require that all uses of force occurring in DPD holding cells are reported and investigated in compliance with the DPD's use of force investigation policies.

**STATUS:** Due to the association between Paragraphs C-55, C-56, and C-57, the status of this paragraph is reported jointly under Paragraph C-57.

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**Paragraph C-57**

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**Incident Documentation, Investigation and Review**

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The DPD shall require that all injuries to prisoners occurring in DPD holding cells are reported and investigated in compliance with the DPD's prisoner injury investigation policies.

**STATUS:** The DPD has effectively disseminated the Directives 304.2, *Use of Force*; 305.4, *Holding Cell Areas*; and Training Directive 04-7, *Use of Force/Detainee Injuries or Allegations of Injuries Reporting and Investigating*, as reported by the Monitor in the Quarterly Report ending February 28, 2006. These Directives define the policies and procedures relative to the requirements of Paragraphs C-55, C-56, and C-57.

The DPD continues to utilize the *Use of Force Detainee Injury Report (UF-002)* and the *Use of Force Supervisor's Investigation Report (SIR UF-002a)* for all detainee injuries incurred either by the use force or through the detainee's own actions.

The *Use of Force in Holding Cells Audit Report*, which was submitted to the Monitor on January 31, 2007, found the DPD non-compliant in the objectives evaluated relative to the mandates of Paragraphs C-55, C-56, C-57. The audit specified numerous recommendations to which the DPD will issue a response as to the recommendations it disagrees with. However, the DPD shall adopt all substantive and procedural recommendations that are required in order to ensure compliance.

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**Paragraph C-62****Management and Supervision**

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The DPD shall routinely evaluate the operation of the holding cells to minimize the risk of harm to staff and prisoners.

**STATUS:** The OCR and HCCC Inspection Teams continue to perform unannounced holding cell facility inspections, to ensure that relative policies are consistently adhered to throughout the DPD holding cell facilities. On January 24 and 25, 2007, the OCR Inspection Team conducted evaluations of the operations of the holding cells, with the exception of the Southwestern District, which was closed during those dates due to renovations being done to the facility. These documented inspections have been reviewed by the Commanding Officer of the OCR and forwarded to the respective commanding officers.

The DPD is in compliance with the requirements of Paragraph C-62.

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**Paragraph C-63****Management and Supervision**

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The DPD shall operate the holding cells in compliance with the DPD's comprehensive risk management plan including implementation of:

- a. the risk management database;
- b. the performance evaluation system;
- c. the auditing protocol;



- d. regular and periodic review of all DPD policies; and
- e. regular meetings of DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD's liability.

**STATUS:** (a) The Monitor stipulates in the Quarterly Report ending May 31, 2006, that "(T)he requirements of paragraph C63 mirror those of paragraph U78. As described in the Current Assessment of Compliance for paragraph U78, the DPD is non-compliance with that paragraph." The DPD is making considerable stride in completing and fully implementing a permanent management awareness system.

(b) The DPD continues to complete performance evaluations of all personnel as required by Directive 401.1, *Performance Evaluation Ratings*. All members of the rank of police officer through lieutenant are evaluated twice a year, and the rank of commander is evaluated yearly. Civilian personnel are evaluated yearly as well.

(c) The 2006-2007 Audit Protocol was submitted to the Monitor on July 31, 2006. The HCCC audits will be conducted in accordance with this protocol. The information gleaned from these audits will be used to evaluate the operation of the holding cells.

(d) The OCR has developed a protocol for a policy review committee. This committee met on August 2, 2006, (the minutes of this meeting were forwarded to the Monitor in Document Request #132, Item 3) and February 23, 2007.

(e) The OCR continues to schedule quarterly meetings with the City's Law Department to identify and evaluate patterns of conduct that may potentially increase liability. The meeting for the current quarter was held on February 21, 2007. IMAS identifiers are also reviewed periodically by the Risk Assessment Unit to determine patterned behaviors that have proven detrimental in the past to the DPD. Lastly, DPD management is continuously apprised of and proceed to discuss corrective remedies to any recently discovered liability issues at weekly Senior Management Meetings.

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#### **Paragraph C-64**

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#### **Management and Supervision**

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The DPD policy on video cameras shall be revised and augmented to require:

- a. the installation and continuous operation of video cameras in all prisoner processing areas of DPD holding cells within one year of the effective date of this Agreement;
- b. supervisors to review videotapes of all incidents involving injuries to a prisoner or an officer, uses of force and external complaints;
- c. that the DPD retain and preserve videotapes for at least 90 days, or as long as necessary for incidents to be fully investigated; and
- d. that the DPD conduct and document periodic random reviews of prisoner

processing area camera videotapes for training and integrity purposes and conduct periodic random surveys of prisoner processing area video recording equipment to confirm that it is in proper working order.

**STATUS:** The DPD has effectively disseminated Directive 305.4, *Holding Cell Areas*, as reported by the Monitor in the Quarterly Report ending February 28, 2006. This Directive defines the policies and procedures relative to the requirements of Paragraph C-64. The approved Video Review Protocol with associated logs and forms have also been disseminated and are accessible to all supervisors who have video review responsibilities. The DPD is in the planning stages of providing instruction on the Video Review Protocol.

The DPD continues to maintain and ensure the proper functionality of all digital video equipment in holding cell areas. The DPD also maintains the archival of digitally captured video. Unannounced inspections were conducted by the OCR and HCCC Inspection Teams on November 27, 28, and 29, 2006, of all district holding cells. These inspections revealed all systems within holding cells to be operable, and the generalized aptitude by all holding cell facility supervisors in the proper operations and the ability to access required features of the cell block video system.

However, the *Use of Force in Holding Cells Audit Report* as submitted on January 31, 2007, found the DPD non-compliant regarding Paragraph 64b. The findings of this audit will be forwarded to the appropriate commands with a Corrective Action Plan (CAP) response expected from the commands during the fifteenth quarter.

The DPD is in compliance with the requirements of Paragraph C-64 a, c and d.

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## Paragraph C-65abc

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## Management and Supervision

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The DPD shall conduct regularly scheduled quarterly audits, covering all DPD units and commands that investigate uses of force(a), injuries to prisoners(b) and allegations of misconduct in holding cells(c), including:

- a. reviewing a sample of command, IAD, and Homicide Section investigations;
- b. evaluating whether the actions of the officer and the subject were captured correctly in the investigative report;
- c. evaluating the preservation and analysis of the evidence;
- d. examining whether there is consistency in use of force and injured prisoner investigations throughout the DPD;
- e. evaluating the appropriateness of the investigator's conclusions; and
- f. issuing a written report regarding the findings of the audit.

**STATUS:** The semi-annual *Use of Force in Holding Cells Audit Report*; the *Holding Cell Prisoner Injury Investigation Audit Report*; and the *Allegations of Misconduct in Holding Cells Audit Report* were submitted to the Monitor on January 31, 2007.

The DPD is in compliance with the requirements of Paragraph C-65.

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**Paragraph C-66ab**

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**Management and Supervision**

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The DPD shall create a Holding Cell Compliance Committee that is responsible for assuring compliance with requirements of this Agreement. The Holding Cell Compliance Committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate compliance with the fire detection, suppression and evacuation program, including:

- a. testing a sample of smoke detectors and sprinklers;
- b. testing the back-up power systems;
- c. reviewing a sample of fire equipment testing and maintenance records; and
- d. issuing a written report regarding the findings of the audit.

**STATUS:** The HCCC, which was established January 6, 2004, is responsible for assuring compliance with the requirements of this Agreement, has defined responsibilities including the completion and submission of audit reports. The semi-annual *Fire Safety Practices and Policies Audit Report* <sup>5</sup> was submitted to the Monitor on January 31, 2007.

The DPD is in compliance with the requirements of Paragraph C-66.

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**Paragraph C-67**

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**Management and Supervision**

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The Holding cell compliance committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate emergency preparedness, including:

- a. reviewing a sampling of key and fire equipment maintenance and inventory records;
- b. interviewing selected detention officers about their participation in fire drills and on their responsibilities under the emergency preparedness program and testing their ability to identify keys necessary to unlock all holding cell doors; and
- c. issuing a written report regarding the findings of the audit.

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<sup>5</sup> Also known as the Fire Safety Audit by the Monitor in their quarterly reports.

**STATUS:** The semi-annual *Emergency Preparedness Program Audit* Report was submitted to the Monitor on January 31, 2007. The Monitor, in the Quarterly Report ending February 28, 2006, found the DPD in compliance with Paragraph C-67 based upon the then submitted semi-annual audit report for that period.

The DPD remains in compliance with the requirements of Paragraph C-67.

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**Paragraph C-68**

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**Management and Supervision**

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The Holding cell compliance committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the medical/mental health programs and policies, including:

- a. reviewing a sampling of hospital referral forms in comparison to prisoner intake forms to evaluate the accuracy of the intake screening and whether appropriate action was taken;
- b. observing intake screening interviews to assess thoroughness;
- c. reviewing a sampling of the prescription medication log to ensure that medications were administered as prescribed and that their distribution was accurately recorded; and
- d. issuing a written report regarding the findings of the audit.

**STATUS:** The semi-annual *Medical/Mental Health Programs and Policies Audit* Report was submitted to the Monitor on January 31, 2007.

The DPD is in compliance with the requirements of Paragraph C-68.

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**Paragraph C-69**

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**Management and Supervision**

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The Holding cell compliance committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the detainee safety programs and policies, including:

- a. reviewing a sampling of security screening records, including written supervisory approvals, to ensure that prisoners are being properly screened and housed;
- b. reviewing a sampling of the cell checks logs to ensure that checks are being accurately and regularly performed and that cell check logs are receiving supervisory review and written approval; and
- c. issuing a written report regarding the findings of the audit.

**STATUS:** The semi-annual *Detainee Safety Programs and Policies Audit* Report was submitted to the Monitor on January 31, 2007.

The DPD is in compliance with the requirements of Paragraph C-69.

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**Paragraph C-70**

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**Management and Supervision**

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The Holding cell compliance committee shall conduct regularly scheduled quarterly audits in all buildings containing holding cells to evaluate the environmental health and safety programs, including:

- a. inspecting holding cells and surrounding areas to ensure that they are clean and clear of debris and that the lighting, sinks and toilets are operable;
- b. reviewing a sampling of cleaning and maintenance logs to ensure they are properly maintained and reflect the scheduled performance of the requisite cleaning and maintenance tasks;
- c. reviewing the systems in place for assuring that all prisoners have reasonable access to potable water and toilets 24 hours a day;
- d. observing whether holding cells are free of any potential suicide hazards; and
- e. issuing a written report regarding the findings of the audit.

**STATUS:** The semi-annual *Environmental Health and Safety Audit Report* was submitted to the Monitor on January 31, 2007. The Monitor, in the Quarterly Report ending February 28, 2006, found the DPD in compliance with Paragraph C-70 based upon the then submitted semi-annual audit report for that period.

The DPD remains in compliance with the requirements of Paragraph C-70.

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**Paragraph C-71**

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**Management and Supervision**

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The Holding cell compliance committee shall conduct regularly scheduled quarterly audits of all buildings containing holding cells to evaluate the food service program, including:

- a. reviewing a sample of food service documentation to evaluate whether prisoners who are held over six hours receive regular and adequate meals;
- b. assuring that food is handled in a sanitary manner; and
- c. issuing a written report regarding the findings of the audit.

**STATUS:** The semi-annual *Detainee Food Service and Personal Hygiene Practices Audit Report* was submitted to the Monitor on January 31, 2007.

The DPD is in compliance with the requirements of Paragraph C-71.

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**Paragraph C-73**

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**Training**

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The DPD shall provide comprehensive pre-service and in-service training to all detention officers.

**STATUS:** Due to the association between Paragraphs C-73, C-75, C-76, C-77 and C-78, the status of this paragraph is reported jointly under Paragraph C-78.

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**Paragraph C-75**

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**Training**

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The DPD shall provide all detention officers, supervisors of detention officers and members of the Holding cell compliance committee with annual training in emergency preparedness. Such training shall include drills and substantive training in the following topics:

- a. emergency response plans and notification responsibilities;
- b. fire drills and use of fire extinguishers and other fire suppression equipment;
- c. key control drills and key control policies and procedures; and
- d. responding to emergency situations, including scenarios detention officers likely will experience.

**STATUS:** Due to the association between Paragraphs C-73, C-75, C-76, C-77 and C-78, the status of this paragraph is reported jointly under Paragraph C-78.

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**Paragraph C-76**

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**Training**

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The DPD shall provide all detention officers, supervisors and members of the Holding cell compliance committee with annual training in the medical/mental health screening programs and policies. Such training shall include and address the following topics:

- a. prisoner intake procedures and medical and mental health protocols, including protocols for transferring or housing prisoners with infectious diseases, disabilities and/or requiring increased monitoring;
- b. recording, updating and transferring prisoner health information and medications;
- c. the prescription medication policy, including instructions on the storage, recording and administration of medications; and
- d. examples of scenarios faced by detention officers illustrating proper intake screening and action in response to information regarding medical and mental health conditions.

**STATUS:** Due to the association between Paragraphs C-73, C-75, C-76, C-77 and C-78, the status of this paragraph is reported jointly under Paragraph C-78.

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**Paragraph C-77****Training**

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The DPD shall provide all detention officers, supervisors and members of the Holding cell compliance committee with annual training in detainee safety programs and policies. Such training shall include and address the following topics:

- a. the security screening program, including protocols for identifying and promptly and properly housing suspected crime partners, vulnerable, assaultive or special management prisoners;
- b. protocols for performing, documenting and obtaining supervisory review of holding cell checks;
- c. protocols concerning prisoners in observation cells, including protocols for direct and continual supervision, for spotting potential suicide hazards and providing appropriate clothing; and
- d. examples of scenarios faced by detention officers illustrating appropriate security screening, segregation and monitoring techniques.

**STATUS:** Due to the association between Paragraphs C-73, C-75, C-76, C-77 and C-78, the status of this paragraph is reported jointly under Paragraph C-78.

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**Paragraph C-78****Training**

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The DPD shall provide all detention officers, supervisors and members of the Holding cell compliance committee with annual training in environmental health and safety and hygiene. Such training shall include and address the following topics:

- a. cell block cleaning and maintenance protocols; and
- b. sanitary food preparation and delivery protocols.

**STATUS:** The DPD is in the process of reviewing and revising the previously submitted Detention Officer Training Lesson Plan. The DPD has identified numerous deficiencies that will be addressed in the revision process. The revisions are also based upon the TA, recommendations, and evaluations provided by the Monitor in the past. Also, the DPD is in the process of preparing a roll out plan that incorporates an annual comprehensive detention officer training for detention officers, supervisors, and members of the HCCC.

The DPD concedes that it has yet to effectively implement, through formalized training, the policy and paragraph provisions of this agreement to a level expected and anticipated by the Monitor. However, as has been demonstrated during numerous internal inspections, the majority of holding cell

facility personnel display proficiency and knowledge of their job responsibilities as required by DPD's policies that were developed to satisfy the CJ requirements.

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**Paragraph C-94**

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**Monitoring and Reporting**

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Subject to the limitations set forth in this paragraph, the DPD shall reopen for further investigation any investigation the Monitor determines to be incomplete. The Monitor shall provide written instructions for completing any investigation determined to be incomplete. The Monitor shall exercise this authority so that any directive to reopen an investigation is given within a reasonable period following the investigation's conclusion. The Monitor may not exercise this authority concerning any investigation the disposition of which has been officially communicated to the officer who is the subject of the investigation.

**STATUS:** The Monitor's Thirteenth Quarterly Report indicates that assessment with this paragraph would begin during the quarter ending February 28, 2007, in response to comments from the City and the DPD; and that the process will begin with the submission of a protocol that will set up a mechanism for the Monitor to review investigations that could be reopened. The DPD has not yet received the protocol from the Monitor for review in regards to this paragraph. The DPD continues to contend that if the Monitor never requests that a file be reopened, then the DPD would never be able to come into compliance with this paragraph. The DPD's position is that the DPD has the intent to comply with this paragraph's requirement and has never refused the Monitor access to any files requested; therefore, the DPD is in compliance with this paragraph until such time that, or if the Monitor makes a request to reopen any investigation and that request is not complied with by the DPD.

The DPD is in compliance with the requirements of Paragraph C-94.



## PARAGRAPHS REVIEWED FOR THE FOURTEENTH QUARTER

### ***USE OF FORCE***

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#### **Paragraph U-27**

#### **Incident Documentation, Investigation, and Review**

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The DPD and the City shall revise their policies regarding the conduct of all investigations to ensure full, thorough, and complete investigations. All investigations shall, to the extent reasonably possible, determine whether the officer's conduct was justified and the DPD and the City shall prohibit the closing of an investigation being conducted by the DPD and/or the City simply because a subject or complainant is unavailable, unwilling or unable to cooperate, including a refusal to provide medical records or proof of injury.

**STATUS:** Paragraph U-27 is a policy revision requirement. The DPD has effectively disseminated the Directive 304.2, *Use of Force*; and Training Directive 04-7, *Use of Force Detainee Injuries or Allegations of Injuries Reporting and Investigation*, as reported by the Monitor in the Quarterly Report ending February 28, 2006. These directives define the policies and procedures relative to the requirements of Paragraphs U-27.

The DPD is in compliance with the requirements of Paragraph U-27.

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#### **Paragraph U-28**

#### **Incident Documentation, Investigation, and Review**

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The DPD and the City shall ensure that investigations are conducted by a supervisor who did not authorize, witness or participate in the incident and that all investigations contain:

- a. documentation of the name and badge number of all officers involved in or on the scene during the incident and a canvass of the scene to identify civilian witnesses;
- b. thorough and complete interviews of all witnesses, subject to paragraph 31 below and an effort to resolve material inconsistencies between witness statements;
- c. photographs of the subject's(s') and officer's(s') injuries or alleged injuries; and
- d. documentation of any medical care provided.

**STATUS:** Due to the association between Paragraphs U-28, U-29, and U-30, the status of this paragraph is reported jointly under Paragraph U-30.

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**Paragraph U-29**

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**Incident Documentation, Investigation, and Review**

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The DPD and the City shall revise their procedures for all investigatory interviews to require:

- a. officers who witness or are involved in an incident to provide a timely statement regarding the incident (subject to paragraph 31 below);
- b. whenever practicable and appropriate, interviews of complainants and witnesses be conducted at sites and times convenient for them, including at their residences or places of business; and
- c. that all IAD, OCI and Critical Firearm Discharge Investigations shall also include in-person video or audio tape-recorded interviews of all complainants, witnesses, and involved DPD officers and prohibit group interviews. In cases where complainants/witnesses refuse in-person video or audio tape recorded interviews, written statements shall be taken and signed by the complainant/witness along with a signed refusal statement by the complainant/witness.

**STATUS:** Due to the association between Paragraphs U-28, U-29, and U-30, the status of this paragraph is reported jointly under Paragraph U-30.

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**Paragraph U-30**

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**Incident Documentation, Investigation, and Review**

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The DPD and the City procedures for all investigatory interviews shall prohibit:

- a. the use of leading questions that improperly suggest legal justifications for the officer's(s') actions when such questions are contrary to appropriate law enforcement techniques; and
- b. the use of interviews via written questions when it is contrary to appropriate law enforcement techniques.

**STATUS:** The DPD has effectively disseminated Directive 304.2, *Use of Force*; and Training Directive 04-7, *Use of Force Detainee Injuries or Allegations of Injuries Reporting and Investigation*, as reported by the Monitor in her Quarterly Report ending February 28, 2006. These directives define the policies and procedures relative to the requirements of Paragraphs U-28 through U-30.

The DPD continues to complete the approved Use of Force Auditable Form (UF-002) and the subsequent Supervisory Investigation and Report (SIR), Use of Force Auditable Form (UF-002a), for incidents involving the use of force (as specified in the Directive 304.2, *Use of Force*) by a DPD member, detainee injury or allegation of injury.

These paragraphs are policy only requirements, which the DPD has met.

The DPD is in compliance with the requirements of Paragraphs U-28, U-29, and U-30.

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**Paragraph U-31** **Incident Documentation, Investigation, and Review**

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The DPD and the City shall develop a protocol for when statements should (and should not) be compelled pursuant to Garrity v. New Jersey, 385 U.S. 493 (1967).

**STATUS:** The DPD developed Training Directive 04-4, *Garrity Protocol*, which was effectively disseminated as reported by the Monitor in her Quarterly Report ending February 28, 2006. Training on the protocol was provided to the OCI on the Garrity Protocol on December 13, 2005; Internal Affairs on April 4, 2006; and the Senior Management Team on August 14, 2006.

The DPD is in compliance with the requirements of Paragraph U-31.

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**Paragraph U-32** **Incident Documentation, Investigation, and Review**

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The DPD shall revise its policies regarding all investigatory reports and evaluations to require:

- a. a precise description of the facts and circumstances of the incident, including a detailed account of the subject's(s') or complainant's(s') and officer's(s') actions and an evaluation of the initial stop or seizure;
- b. a review of all relevant evidence, including circumstantial, direct and physical evidence;
- c. that the fact that a subject or complainant pled guilty or was found guilty of an offense shall not be considered as evidence of whether a DPD officer engaged in misconduct, nor shall it justify discontinuing the investigation;
- d. reasonable credibility determinations, with no automatic preference given to an officer's statement over a non-officer's statement or discounting of a witness's statement merely because the witness has some connection to the subject or complainant;
- e. an evaluation of whether an officer complied with DPD policy;
- f. an evaluation of all uses of force, including the officer's tactics, and any allegations or evidence of misconduct uncovered during the course of the investigation;
- g. all administrative investigations to be evaluated based on a preponderance of the evidence standard;
- h. written documentation of the basis for extending the deadline of a report and evaluation and provide that the circumstances justifying an extension do not include an investigator's vacation or furlough and that problems with investigator vacations or workload should result in the matter being

- reassigned; and
- i. any recommended non-disciplinary corrective action or disciplinary action be documented in writing.

**STATUS:** Due to the association between Paragraphs U-32 and U-33, the status of this paragraph is reported jointly under Paragraph U-33.

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**Paragraph U-33**

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**Incident Documentation, Investigation, and Review**

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The DPD shall revise its policies regarding the review of all investigations to require:

- a. investigations to be reviewed by the chain of command above the investigator;
- b. the reviewing supervisors to identify any deficiencies in those investigations and require the investigator to correct any deficiencies within seven days of the submission of the report and evaluation to the reviewing supervisor;
- c. the reviewing supervisors to recommend and the final reviewing authority to refer any incident with training, policy or procedural implications to the appropriate DPD unit;
- d. appropriate non-disciplinary corrective action and/or disciplinary action when an investigator fails to conduct or reviewing supervisor fails to evaluate an investigation appropriately; and
- e. a written explanation by any supervisor, including the Chief of Police, who disagrees with a finding or departs from a recommended non-disciplinary corrective action or disciplinary action, including the basis for the departure.

**STATUS:** Paragraphs U-32 and U-33 are policy revision requirements. The DPD has effectively disseminated the Directive 304.2, *Use of Force*, and Training Directive 04-7, *Use of Force Detainee Injuries or Allegations of Injuries Reporting and Investigation*, as reported by the Monitor in her Quarterly Report ending February 28, 2006. These directives define the policies and procedures relative to the requirements of Paragraphs U-32 and U-33.

The DPD is in compliance with the requirements of Paragraphs U-32 and U-33.

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**Paragraph U-49**

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**Arrest and Detention Policies and Practices**

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The DPD shall revise its policies to require prompt judicial review, as defined in this Agreement, for every person arrested by the DPD. The DPD shall develop a timely and systematic process for all arrestees to be presented for prompt judicial review or to be released.

**STATUS:** Paragraph U-49 is a policy revision requirement. The DPD has effectively disseminated Directive 202.1, *Arrests*, as reported by the Monitor in her Quarterly

Report ending February 28, 2006. This directive defines the policies and procedures relative to the requirements of Paragraph U-49.

The DPD is in compliance with the requirements of Paragraph U-49.

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**Paragraph U-50**

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**Arrest and Detention Policies and Practices**

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The DPD shall require that, for each arrestee, a warrant request for arraignment on the charges underlying the arrest is submitted to the prosecutor's office within 24 hours of the arrest.

**STATUS:** Due to the association between Paragraphs U-50 and U-51, the status of this paragraph is reported jointly under Paragraph U-51.

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**Paragraph U-51**

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**Arrest and Detention Policies and Practices**

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The DPD shall document on an auditable form all instances in which the request for an arraignment warrant is submitted more than 24 hours after the arrest. The DPD shall also document on an auditable form all instances in which it is not in compliance with the prompt judicial review policy and in which extraordinary circumstances delayed the arraignment. The documentation shall occur by the end of the shift in which there was:

- 1) a failure to request an arraignment warrant within 24 hours,
- 2) a failure to comply with the prompt judicial review policy, or
- 3) an arraignment delayed because of extraordinary circumstances.

**STATUS:** The DPD is diligently monitoring and becoming more proficient in complying with the established protocols and procedures for ensuring that each and every detainee is assured prompt judicial review within twenty-four (24) hours of arrest. The Warrant Verification Log (DPD 711) and the Arraignment Sheet (DPD 711a) were implemented in November of 2006, to assist in tracking compliance with these paragraphs, as well as other prompt judicial CJ paragraphs.

The DPD continues to successfully utilize the Warrant Tracking Auditable Form (UF-004) that was necessitated under Paragraph U-51. This form assures that exceptions to prompt judicial review are captured and documented for executive review and prerogative.

The DPD is in compliance with the requirements of Paragraphs U-50 and U-51.

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**Paragraph U-53**

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**Arrest and Detention Policies and Practices**

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The DPD shall document all holds, including the time each hold was identified and the time each hold was cleared. The DPD shall document on an auditable form each instance in which a hold is not processed within twenty-four hours on a daily basis.

**STATUS:** The DPD has effectively disseminated Directive 305.2, *Detainee Registration*, as reported by the Monitor in the Quarterly Report ending February 28, 2006. This Directive defines the policies and procedures relative to the requirements of Paragraph U-53.

The DPD continues to successfully utilize the Hold Exception Auditable Form (UF-007), which assures that exceptions to Detroit related holds not being cleared within twenty-four (24) hours from the time they are identified are captured and documented for executive review and prerogative.

The DPD also implemented the Detainee Input Sheet (DIS) in November of 2006, which is completed for detainees entering a DPD holding facility. The DIS will capture all holds, when identified and cleared, in writing. Ultimately, the DIS will be the means by which this data will be inputted into LiveScan (automated). The upgrades to the LiveScan system that will allow for this data to be captured is currently being evaluated.

The DPD is in compliance with the requirements of Paragraph U-53.

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**Paragraph U-55**

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**Arrest and Detention Policies and Practices**

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The DPD shall require that such restrictions be documented and reviewed at the time the restriction is issued and reevaluated each day in which the restriction remains in effect. The DPD shall document on an auditable form any violation of the restriction policy by the end of the shift in which the violation occurred.

**STATUS:** The DPD has effectively disseminated Directive 305.4, *Holding Cell Areas*, as reported by the Monitor in the Quarterly Report ending February 28, 2006. This directive defines the policies and procedures relative to the requirements of Paragraph U-55.

The DPD continues to successfully utilize the Privilege Restriction Log (DPD 700), which documents the time, type, and reason the 24 hour restriction is placed on the detainee and the time the restriction is lifted (in order to determine if a violation has occurred); and the Detainee Telephone and/or Visitor Restriction Exception Auditable Form (UF-008), which assures that exceptions to detainees having restrictions placed upon them for longer than 24 hours are captured and documented for executive review and prerogative.

During this review quarter, the DPD reviewed a sample of restrictions placed on detainees (via a submitted Monitor's Document Request #143 – Item 4). It has been determined that the members of the DPD imposing restrictions on detainees are completing the wrong form. The majority of restrictions placed during the reviewed period were initiated on the auditable form (UOF 008), when the Privilege Restriction Log should have been completed and in actuality no exceptions had occurred. As a result of this identified deficiency, a subsequent CAN report was generated and forwarded to the Assistant Chief of the Operations Portfolio for a CAP. The DPD is confident that the subsequent CAP report will be effective in alleviating the described deficiency.

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**Paragraph U-57**

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**Arrest and Detention Policies and Practices**

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The DPD shall obtain a court order prior to taking a material witness into DPD custody. The DPD shall document on an auditable form the detention of each material witness and attach a copy of the court order authorizing the detention.

**STATUS:** The DPD has effectively disseminated Directive 202.1, *Arrests*, and Training Directive 04-1, *Confinement of Material Witnesses*, as reported by the Monitor in the Quarterly Report ending February 28, 2006. These directives define the policies and procedures relative to the requirements of Paragraph U-57.

The DPD continues to successfully utilize the Detention of Material Witness Auditable Form (UF-006), which documents all detainees held as a material witness with a court order for executive review and prerogative. The court order must be attached to the auditable form in all instances where a material witness is being held by the DPD.

The DPD is in compliance with the requirements of Paragraph U-57.

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**Paragraph U-60**

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**Arrest and Detention Policies and Practices**

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The DPD shall require the commander of the precinct and, if applicable, of the specialized unit to review in writing all violations of DPD prompt judicial review, holds, restrictions and material witness policies on a daily basis. The commander's review shall include an evaluation of the actions taken to correct the violation and whether any corrective or non-disciplinary action was taken.

**STATUS:** The DPD has effectively disseminated Directives 202.1, *Arrests*, 305.2 Detainee Registration, 305.4, *Holding Cell Areas*, and Training Directive 04-1, *Confinement of Material Witnesses*, as reported by the Monitor in the Quarterly Report ending February 28, 2006. These directives define the policies and procedures relative to the requirements of Paragraph U-60.

The Commanding Officer Review section has been incorporated into the *Warrant Tracking Form* (UF-004); *Confinement of Material Witness Form* (UF-006); *Hold Policy Form* (UF-007); and, *Privilege Restriction Form* (UF-008). These reviews are being completed within twenty-four (24) hours of receiving the incident reporting document.

The DPD is in compliance with the requirements of Paragraph U-60.

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**Paragraph U-72**

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**General Policies**

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The DPD shall advise all officers, including supervisors, that taking police action in violation of DPD policy shall subject officers to discipline, possible criminal prosecution, and/or civil liability.

**STATUS:** Paragraph U-72 is a policy only requirement. The DPD has effectively disseminated Directive 102.3, *Code of Conduct*, as reported by the Monitor in the Quarterly Report ending February 28, 2006. This Directive defines the policies and procedures relative to the requirements of Paragraph U-72. This paragraph's requirements are included in the Use of Force and the Supervisory Leadership and Command Accountability lesson plans.

The DPD is in compliance with the requirements of Paragraph U-72.

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**Paragraph U-73**

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**General Policies**

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The DPD and the City shall develop a plan for ensuring regular field deployment of an adequate number of supervisors of patrol units and specialized units that deploy in the field to implement the provisions of this agreement.

**STATUS:** The DPD's plan to ensure a regular field deployment of an adequate number of supervisors of patrol and specialized units that deploy in the field has been agreed to by the Monitor.

In the Monitor's Twelfth Quarterly Report, the Monitor conducted a review of this paragraph and found DPD's overall compliance rate at 90%. The Monitor also commended "the DPD for what represents a marked improvement since the last evaluation" in this report. Although the Monitor requested additional information for platoons from some Districts, the Monitor had ultimately withheld a determination in the Twelfth Quarterly Report. The Monitor then reevaluated this paragraph in the Thirteenth Quarterly Report, where she had determined the revised overall compliance rate to be at 83.2%. The DPD analyzed these findings and determined that this decrease was the result of certain investigative commands (i.e., Sex Crimes, Child Abuse) that utilize an on-call supervisor during platoons one and three were rejected. In response, the DPD's contention is that these investigative entities



actually report under Major Crimes and thus would be supervised by other entities within Major Crimes.

The DPD is in compliance with the requirements of Paragraph U-73.

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#### Paragraph U-74

#### General Policies

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The DPD shall enforce its policies requiring all DPD officers to report any misconduct committed by another DPD officer, whether committed on-duty or off-duty.

**STATUS:** The DPD has effectively disseminated Directive 102.3, *Code of Conduct*, as reported by the Monitor in the Quarterly Report ending February 28, 2006. This Directive defines the policies and procedures relative to the requirements of Paragraph U-74.

In addition, on February 9, 2007, the DPD provided the Monitor with a copy of a discipline case in which an officer was disciplined for failing to report the misconduct committed by another on-duty DPD officer.

The DPD is in compliance with the requirements of Paragraph U-74.

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#### Paragraph U-75

#### General Policies

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The DPD shall revise its policies regarding off-duty officers taking police action to:

- a. provide that off-duty officers shall notify on-duty DPD or local law enforcement officers before taking police action, absent exigent circumstances, so that they may respond with appropriate personnel and resources to handle the problem;
- b. prohibit off-duty officers from carrying or using firearms or taking police action in situations where an officer's performance may be impaired or the officer's ability to take objective action may be compromised; and
- c. provide that, if it appears the officer has consumed alcohol or is otherwise impaired, the officer shall submit to field sobriety, breathalyzer, and/or blood tests.

**STATUS:** Paragraph U-75 is a policy revision requirement. The DPD has effectively disseminated Directives 102.3, *Code of Conduct*, and 202.1, *Arrests*, as reported by the Monitor in the Quarterly Report ending February 28, 2006. These directives define the policies and procedures relative to the requirements of Paragraph U-75. In addition, the provisions of this paragraph are included in the Use of Force and the Supervisory Leadership and Command Accountability lesson plans.

The DPD is in compliance with the requirements Paragraph U-75.

The DPD shall revise its policies regarding prisoners to:

- a. require officers to summon emergency medical services to transport prisoners when the restraints employed indicate the need for medical monitoring;
- b. require officers to utilize appropriate precautions when interacting with a prisoner who demonstrates he or she is recalcitrant or resistant, including summoning additional officers, summoning a supervisor and using appropriate restraints; and
- c. prohibit arresting and transporting officers from accompanying prisoners into the holding cell area.

**STATUS:** Paragraph U-76 is a policy revision requirement. The DPD has effectively disseminated Directives 305.4, *Holding Cell Areas*, and 305.7, *Transportation of Detainees*, as reported by the Monitor in her Quarterly Report ending February 28, 2006. These directives define the policies and procedures relative to the requirements of Paragraph U-76. In addition, the provisions of this paragraph are included in the Use of Force and the Supervisory Leadership and Command Accountability lesson plans.

The DPD is in compliance with the requirements of Paragraph U-76.

The DPD shall develop a foot pursuit policy to:

- a. require officers to consider particular factors in determining whether a foot pursuit is appropriate, including the offense committed by the subject, whether the subject is armed, the location (e.g., lighting and officer familiarity), whether more than one officer is available to engage in the pursuit, the proximity of reinforcements, and the ability to apprehend the subject at a later date;
- b. emphasize alternatives to foot pursuits, including area containment, surveillance, and obtaining reinforcements;
- c. emphasize the danger of pursuing and engaging a subject with a firearm in hand; and
- d. require officers to document all foot pursuits that involve a use of force on a separate, auditable form, such as the use of force report.

**STATUS:** Paragraph U-77 is a policy only requirement. The DPD has effectively disseminated Directive 202.7, *Foot Pursuit*, as reported by the Monitor in the Quarterly Report ending February 28, 2006. This directive defines the policies and procedures relative to the requirements of Paragraph U-77. In addition, the

provisions of this paragraph are in the Use of Force and the Supervisory Leadership and Command Accountability lesson plans.

The DPD is in compliance with the requirements of Paragraph U-77.

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**Paragraph U-78**

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**Management and Supervision**

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The DPD shall devise a comprehensive risk management plan, including:

- a. a risk management database (discussed in paragraphs 79-90;
- b. a performance evaluation system (discussed in paragraph 91)
- c. an auditing protocol (discussed in paragraphs 92-99;
- d. regular and periodic review of all DPD policies; and
- e. regular meetings of DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD's liability.

**STATUS:** Due to the association between Paragraphs U-78, U-85, and U-88 (e,f,g), the status of this paragraph is reported jointly under Paragraph U-88.

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**Paragraph U-85**

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**Management and Supervision**

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The DPD shall seek to ensure that the risk management database is created as expeditiously as possible. As part of this effort, the DPD, in consultation with the DOJ, shall organize the risk management database into modules in developing the Data Input Plan, the Report Protocol, the Review Protocol, and the Request for Proposals and in negotiating with contractors, such that difficulties with one aspect of the risk management database do not delay implementation of other modules.

**STATUS:** Due to the association between Paragraphs U-78, U-85, and U-88 (e,f,g), the status of this paragraph is reported jointly under Paragraph U-88.

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**Paragraph U-88b e f g**

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**Management and Supervision**

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The new risk management database shall be developed and implemented according to the following schedule:

- a. Within 90 days of the effective date of this Agreement, the DPD shall submit the Data Input Plan to the DOJ for review and approval. The DPD shall share drafts of this document with the DOJ to allow the DOJ to become familiar with the document as it is developed and to provide informal comments. The DPD and the DOJ shall together seek to ensure that the Data Input Plan receives final approval within 30 days after it is presented for review and approval.
- b. By September 30, 2003, the DPD shall submit the Report Protocol and a

Request for Proposals to the DOJ for review and approval. The DPD shall share drafts of these documents with the DOJ to allow the DOJ to become familiar with the documents as developed and to provide informal comments. The DPD and the DOJ shall together seek to ensure that the Report Protocol and the Request for Proposals receive final approval within 30 days after they are presented for review and approval.

- c. By October 31, 2003, the DPD shall issue the Request for Proposals.
- d. By March 30, 2004, the DPD shall submit the Review Protocol to the DOJ for review and approval. The DPD shall share drafts of this document with the DOJ and the Monitor (a position described in Section X) to allow the DOJ and the Monitor to become familiar with the document as it develops and to provide informal comments on it. The DPD and the DOJ shall together seek to ensure that the protocol receives final approval within 30 days after it is presented for review and approval.
- e. By May 31, 2004, the DPD shall select the contractor to create the risk management database.
- f. By June 30, 2005, the City shall have ready for testing a beta version of the risk management database consisting of: i) server hardware and operating systems installed, configured and integrated with the City and DPD's existing automated systems; ii) necessary data base software installed and configured; iii) data structures created, including interfaces to source data; and iv) the information system completed, including historic data. The DOJ and the Monitor shall have the opportunity to participate in testing the beta version using new and historical data and test data created specifically for purposes of checking the risk management database.
- g. The risk management database shall be operational and fully implemented by December 31, 2005.

**STATUS:** The DOJ has approved the Review Protocol and the Report Protocol. Additionally, at the Monitor's Meeting of August 9, 2006, the DOJ granted conditional approval of the DPD's Data Input Plan.

During this review quarter, the DPD and the DOJ entered into an agreement for the conversion of the current IMAS into the MAS, which would be facilitated by the City of Detroit's Information Technology Services (ITS). This agreement gives the City until July 24, 2008, for the completion and full implementation of the MAS. In addition, the DPD, ITS and the DOJ have agreed to conduct meetings on a monthly basis relative to the progress of the development of MAS. The first meeting took place on February 28, 2007.

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**Paragraph U-89**

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**Management and Supervision**

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Prior to implementation of the new risk management database, the DPD shall develop an interim system to identify patterns of conduct by DPD officers or groups of officers. The interim system shall require periodic reviews of relevant information, but no less than monthly, and evaluations of whether an officer or group of officers is engaging in at risk behavior. This interim system shall collect and analyze the following information: citizen complaint reports and investigations; use of force investigations; shootings; vehicle chases; injured prisoner investigations; traffic collisions; canisters of chemical spray issued to officers; firearms qualifications; training; prompt judicial review; disciplinary action; arrest without probable cause; all reports regarding investigatory stops and/or frisks unsupported by reasonable suspicion; and all reports regarding interviews, interrogations or conveyances in violation of DPD policy in a format that facilitates entry into the final risk management database, to the fullest extent possible.

**STATUS:** The IMAS continues to be utilized by the DPD since obtaining DOJ's approval on May 1, 2005. A total of 541 (81%) supervisory members, inclusive of DPD executives, have been trained on IMAS. An IMAS tutorial is available on the DPD-Intranet for members. In addition, IMAS training has been incorporated into the Supervisory Leadership and Accountability lesson plan.

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**Paragraph U-98**

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**Management and Supervision**

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The DPD shall conduct and document periodic random reviews of scout car camera videotapes for training and integrity purposes. In addition, the DPD shall require periodic random surveys of scout car video recording equipment to confirm that it is in proper working order.

**STATUS:** Due to the association between Paragraphs U-98, U-100, U-101, and U-102, the status of this paragraph is reported jointly under Paragraph U-102.

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**Paragraph U-100**

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**Management and Supervision**

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The DPD shall repair or replace all non-functioning video cameras.

**STATUS:** Due to the association between Paragraphs U-98, U-100, U-101, and U-102, the status of this paragraph is reported jointly under Paragraph U-102.

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**Paragraph U-101**

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**Management and Supervision**

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The DPD policy on video cameras shall be revised and augmented to require:

- a. activation of scout car video cameras at all times the officer is on patrol;
- b. supervisors to review videotapes of all incidents involving injuries to a prisoner or an officer, uses of force, vehicle pursuits and external complaints; and
- c. that the DPD retain and preserve videotapes for at least 90 days, or as long as necessary for incidents to be fully investigated.

**STATUS:** Due to the association between Paragraphs U-98, U-100, U-101, and U-102, the status of this paragraph is reported jointly under Paragraph U-102.

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**Paragraph U-102**

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**Management and Supervision**

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The DPD policy on video cameras shall require officers to record all motor vehicle stops, consents to search a vehicle, deployments of a drug-detection canine, or vehicle searches.

**STATUS:** Paragraphs U101 and U-102 are policy only paragraphs, which have been developed and incorporated into the Directive 303.3, *In-Car Video*. In addition, the DPD has effectively disseminated the Directive 303.3, *In-Car Video*, as reported by the Monitor in her Quarterly Report ending February 28, 2006, the Video Review Protocol is an attachment to the In-Car Video Directive. This directive defines the policies and procedures relative to the requirements of Paragraphs U-98, U-100, U-101, and U-102.

The DPD continues to utilize and inspect all in-car video equipment for the proper working condition to ensure that all incidents are being captured. The DPD immediately repairs, within our abilities, any video equipment found to be non-operational.

The DPD is currently responding to a Monitor's Document Request where the total number of patrol vehicles, the number of vehicles with installed video equipment and the number of those which have operable equipment are compared. Preliminarily, the current compiled data reflects that approximately 68% of the patrol fleet have installed video equipment, of which approximately 65% of those vehicles with installed equipment are actually operable. In addition, the new 2007 fleet of patrol vehicles have all been equipped with operable video cameras, which will be utilized by DPD members on patrol commencing in the next quarter. The DPD continues to rectify the overall situation of the in-car video equipment.

The DPD is in the process of implementing procedures for the conducting of random reviews of in-car videotapes.

The DPD is in compliance with the requirements of Paragraphs U-101 and U-102.

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**Paragraph U-103**

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**Management and Supervision**

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The City shall ensure that adequate resources are provided to eliminate the backlog of disciplinary cases and that all disciplinary matters are resolved as soon as reasonably possible.

**STATUS:** Due to the association between Paragraphs U-103 and U-104, the status of this paragraph is reported jointly under Paragraph U-104.

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**Paragraph U-104**

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**Management and Supervision**

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The DPD shall schedule disciplinary hearings, trials, and appeals at appropriately frequent intervals, to prevent a disciplinary backlog from developing. As part of determining how often to schedule such hearings, the DPD shall establish guidelines dictating the maximum period of time that should elapse between each stage of the disciplinary process.

**STATUS:** Currently, there is no backlog of disciplinary cases. During this review quarter the DPD has defined a disciplinary backlog as being: any misconduct and/or investigation report that has been logged in at Disciplinary Administration in which 12 months have elapsed without any form of an adjudication proceeding commencing. In addition, on August 29, 2006, the DPD resubmitted a revised Disciplinary Process Timeline to the Monitor, which has not yet been evaluated by the Monitor.

The DPD is in compliance with the requirements of Paragraphs U-103 and U-104.

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**Paragraph U-105**

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**Management and Supervision**

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The DPD shall create a disciplinary matrix that:

- a. establishes a presumptive range of discipline for each type of rule violation;
- b. increases the presumptive discipline based on both an officer's prior violations of the same rule as well as violations of other rules;
- c. requires that any departure from the presumptive range of discipline must be justified in writing;
- d. provides that the DPD shall not take only non-disciplinary corrective action in cases in which the disciplinary matrix calls for the imposition of discipline; and

- e. provides that the DPD shall consider whether non-disciplinary corrective action also is appropriate in a case where discipline has been imposed.

**STATUS:** Paragraph U-105 is a policy only requirement. The DPD created a Discipline Matrix and revised the Directive 102.4, *Discipline/Misconduct Investigation*. In addition, the DPD effectively disseminated the Discipline Matrix and Directive 102.4, as reported by the Monitor in the Quarterly Report ending February 28, 2006. This directive defines the policies and procedures relative to the requirements of Paragraph U-105.

The Monitor in her last evaluation of the paragraph during the quarter ending August 31, 2006, did not yet evaluate for compliance. On the dates of October 20, 24, and 25, 2006, the DPD provided the Monitor with access to numerous discipline files for the purpose of evaluating whether the provisions of the paragraph were implemented.

The DPD is in compliance with the requirements of Paragraph U-105.

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#### Paragraph U-115

#### Training

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The DPD shall provide all DPD recruits, officers, and supervisors with annual training on custodial detention. Such training shall include DPD policies regarding arrest, arraignment, holds, restrictions, material witness and detention records.

**STATUS:** The DPD has provided custodial detention training consistent with this paragraph's requirements in the past, even though it has not been formally approved by the Monitor. This training is considered to be educational and beneficial to the current detention officers who have had the training.

Currently, the DPD is revising its Custodial Detention lesson plan to include all forms and guidelines that have been approved by the Monitor and/or the DOJ. However, as of this date, the Monitor has not provided feedback or approval on the Security Screening Form or the Detention Cell Check Form, which were submitted to the Monitor on April 28, 2006.

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#### Paragraph U-116

#### Training

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The DPD shall advise officers that the DPD arraignment policy shall not be delayed because of the assignment of the investigation to a specialized unit, the arrest charge(s), the availability of an investigator, the gathering of additional evidence or obtaining a confession.

**STATUS:** The Police-Citizens Interaction (Legal) Lesson Plan, which incorporates the provisions of this paragraph, is currently being developed.



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**Paragraph U-117****Training**

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The DPD shall advise officers that whether an individual is a material witness and whether that material witness should be committed to custody is a judicial determination.

**STATUS:** The Police-Citizens Interaction (Legal) Lesson Plan, which incorporates the provisions of this paragraph, is currently being developed. Additionally, the Arrest Directive 202.1, and Confinement of Material Witnesses, Directive 04-1, which have been effectively disseminated, address the requirements of this paragraph.

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**Paragraph U-118****Training**

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The DPD shall provide supervisors with training in the appropriate evaluation of written reports, including what constitutes a fact based description, the identification of conclusory language not supported by specific facts and catch phrases, or language that so regularly appears in reports that its inclusion requires further explanation by the reporting officer.

**STATUS:** The Supervisory Leadership and Accountability Lesson Plan, incorporates the provisions of this paragraph.

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**Paragraph U-119****Training**

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DPD supervisors shall receive leadership and command accountability training and learn techniques designed to promote proper police practices. This training shall be provided to all DPD supervisors within 30 days of assuming supervisory responsibilities and shall be made part of annual in-service training.

**STATUS:** The Police-Citizens Interaction (Legal) Lesson Plan, which incorporates the provisions of this paragraph, is currently being developed.

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**Paragraph U-120****Training**

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The City and the DPD shall distribute and explain this Agreement to all DPD and all relevant City employees. The City and the DPD shall provide initial training on this Agreement to all City and DPD employees whose job responsibilities are effected by this Agreement within 120 days of each provision's implementation. Thereafter, the DPD shall provide training on the policies contained in this Agreement during in-service training.

**STATUS:** The Supervisory Leadership and Accountability Lesson Plan, incorporates the provisions of this paragraph.

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**Paragraph U-121****Training**

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The DPD shall provide training on appropriate burdens of proof, interview techniques and the factors to consider when evaluating officer, complainant or witness credibility to all officers who conduct investigations to ensure that their recommendations regarding dispositions are unbiased, uniform and legally appropriate.

**STATUS:** The Detective School Lesson Plan, which incorporates the provisions of this paragraph, is currently being developed. In the interim, the DPD has held two 80-hour training sessions during this review quarter, entitled "Detective School." The first session was November 27 through December 8, 2006, during the Sergeants and Lieutenants Promotional Assessment Course, 35 members attended. The second session was held January 22 through February 2, 2007, 33 members currently assigned to an investigative entity attended. A third session is scheduled for March 19 through March 30, 2007.

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**Paragraph U-122****Training**

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The DPD shall provide all supervisors charged with accepting external complaints with appropriate training on handling external complaints that emphasizes interpersonal skills. The DPD shall provide training on the DPD external complaint process, including the role of OCI and IAD in the process, to all new recruits and as part of annual in-service training.

**STATUS:** The Supervisory Leadership and Accountability Lesson Plan, incorporates the provisions of this paragraph.

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**Paragraph U-123****Training**

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The DPD shall develop, subject to DOJ approval, a protocol to enhance the FTO program within 120 days of the effective date of this Agreement. The protocol shall address the criteria and method for selecting and removing the FTO's and for training and evaluating FTO's and trainees.

**STATUS:** On April 11, 2006, the DOJ sent the DPD a letter granting the DPD conditional approval for the DPD's FTO Protocol. The DOJ's recommendations necessary to grant ultimate approval are currently being incorporated into the protocol.

The DPD is in compliance with the requirements of Paragraph U-123.

Subject to the limitations set forth in this paragraph, the DPD shall reopen for further investigation any investigation the Monitor determines to be incomplete. The Monitor shall provide written instructions for completing any investigation determined to be incomplete. The Monitor shall exercise this authority so that any directive to reopen an investigation is given within a reasonable period following the investigation's conclusion. The Monitor may not exercise this authority concerning any investigation the disposition of which has been officially communicated to the officer who is the subject of the investigation.

**STATUS:** The DPD's position is that the DPD has the intent to comply with this paragraph and has never refused the Monitor access to any files requested; therefore, the DPD is in compliance with this paragraph until such time that, or if, the Monitor makes a request to re-open any investigation and that request is not complied with by the DPD. The DPD has made the contents of all investigative files requested by the Monitor available to the Monitor.

The Monitor has made numerous and additional document requests during this assessment quarter to review and/or access the investigative files, including those of the OCI and ICD. The DPD has provided unfettered reasonable access to those files and members of the Monitor's Team have reviewed numerous DPD investigative files. To date, the Monitor has not determined that any DPD investigation is incomplete and required any file to be reopened for further investigation.

The DPD is *in compliance* with the requirements of Paragraph U-139.

## CONCLUSION

The DPD has made remarkable progress toward compliance during the Fourteenth Quarter in regards to dissemination of policy and training directives to all commands. Community interaction and training of citizens concerning the CJ is always a priority and has continued in this quarter.

The Fourteenth Quarter Report details significant steps taken concerning inspections of precinct holding cells, and of various City facilities including Detroit Public Libraries and Neighborhood City Halls to ensure compliance of specific paragraphs in the CJ.

The Fourteenth Quarter Report also exemplifies the DPD's continued commitment toward professionalizing its members with on-going training in an effort to ensure that both our civilian and police personnel have the needed tools to complete the desired tasks as it relates to achieving compliance with the CJ.

The DPD will continue to make every effort necessary for positive forward movement towards achieving compliance with the mandates of the CJ. Overall, the report displays the DPD's genuine commitment to conform to the standards and requirements set forth in the CJ.